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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,428	10/24/2005	Girish G Parekh	06-1660-0101	8266
62127 7590 08/17/2010 VALSPAR SOURCING, INC. 901 3rd Avenue South PO Box 1461 MINNEAPOLIS, MN 55440-1461			EXAMINER JACOBSON, MICHELE LYNN	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/522,428

**Applicant(s)**

PAREKH ET AL.

**Examiner**

MICHELE JACOBSON

**Art Unit**

1782

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6, 9-21 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2-6, 9-21 and 26-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-6, 9-15, 18-21, 26 and 27 are rejected under 35 U.S.C. 102(b) as anticipated by Heyenk et al. International Publication Number WO 98/47974 (hereafter referred to as Heyenk) as evidenced by Parekh et al. U.S. Patent No. 6,235,102 (hereafter referred to as Parekh).

3. Regarding claims 1, 3-6 and 9: Heyenk teaches a resin comprising a mixture of at least two polymers wherein at least one polymer has a glass transition temperature ( $T_g$ ) greater than about 45° C. (Pg. 1, line 29-Pg. 2, line 2). Generally, the second polymer has a dry solids content between 30% and 100% and  $T_g$  less than 40°C, preferably a dry solids content of at least 50% and  $T_g$  less than 10°C (which is less than 25°C as claimed by applicant). (Pg. 2, lines 22-30) The weight proportion of the polymer having a  $T_g$  higher than 45° C is at least 25% (relative to the polymers). (Pg. 3, lines 21-23) Suitable polyalcohols for preparing the polyesters are recited to include ethylene glycol, diethylene glycol, butanediol (1,4), hexanediol (1,6), neopentyl glycol, 2-methyl-1,3-propanediol, 1,3-butanediol, 1,3-propanediol, 1,2-propanediol, 2-ethyl-2-

butyl-1,3-propanediol, trimethylpentanediol, hydroxypivalic neopentyl glycol ester, tricyclodecane dimethanol, cyclohexane dimethanol, bisphenol A bishydroxyethyl ether, trimethylolpropane and/or pentaerythritol. The coating of the invention is recited to be useful as interior or exterior coatings for beer cans, cans for other beverages and can ends made of substrates such as aluminum (i.e. can body and end portions). (Pg. 8, lines 23-28)

4. The polymer mixture according to the invention has to be cured with a crosslinker of which amino resin crosslinkers such as benzoguanamine, melamine and urea-formaldehyde resins are recited. The amino resin cross linkers are recited to be present in amounts of between 5-40 wt %. (Pg. 4, lines 7-8, 26-30) Crosslinkers containing isocyanate groups are also recited to be useful. (Pg. 4, lines 11-12) Heyenk clearly teaches the compositional limitations of claim 1. Regarding applicant's recitation of one of the polyester resins have a  $T_g$  of greater than 50°C, the recitation in Heyenk of a  $T_g$  of greater than 45°C is deemed by the examiner to be sufficiently specific to anticipate the range of greater than 50°C as claimed by applicant since one of ordinary skill would have immediately envisaged that the recitation "greater than 45°C" included  $T_g$ 's greater than 50°C. (See MPEP 2131.03 II)

5. Evidence that the composition recited by Heyenk would be substantially free of mobile BPA and aromatic glycidyl ether compounds is found in Parekh which teaches that bisphenol monomers (e.g. bisphenol A) and glycidyl ether monomers (e.g. BADGE) are present in can coatings that use epoxy or phenolic resins. (Col. 2, line 54-Col.3, line26)

6. Since Heyenk teaches amino resin and isocyanate resin cross linkers in addition to and as an *alternative* to epoxy based cross linkers, the invention of Heyenk would inherently be completely free of bisphenol and glycidyl ether monomers such as BPA, BADGE, BFDGE and NOGE according to applicants' definition.

7. Since Heyenk teaches that the polyester having a  $T_g$  of greater than 45°C is present in an amount of at least 25% of the composition and that the cross linker is present in an amount of 5-40% it would be reasonable to infer that in a composition comprising 25% polyester having a  $T_g$  of greater than 45°C and 5% crosslinker the balance, 70% would comprise polyester having a  $T_g$  of less than 10°C which anticipates a data point within the range of low  $T_g$  polyester percent weight claimed in claim 1.

8. Therefore Heyenk anticipates/obviates the limitations recited in claims 1, 3-5 and

9. Heyenk also teaches other polyols in addition to neopentyl glycol so the limitation of the polyol used to make the polyester of claim 6 being substantially NPG free is anticipated.

9. Regarding claim 10: The polymers are preferably polyesters with molecular weights between 2000 and 15000 and a difference in glass transition temperatures greater than 5° C which anticipates a data point within the range claimed in claim 10.

(Pg. 2, lines 5-12)

10. Regarding claims 11 and 12: Depending on the desired use, the acid numbers of the polyesters recited by Heyenk range between 0-100 mg of KOH/g of resin and the hydroxyl numbers of the polyesters range between 0-150 mg of KOH/g of resin. (Pg. 3, line 30-Pg. 4, line 2) Example 1 of Heyenk discloses a polyester resin with an acid

number of 3.5 mg of KOH/g of resin and a hydroxyl number of 18.5 mg of KOH/g of resin, both values of which anticipate the ranges recited by applicant.

11. Regarding claims 13-15 and 26: Since the polymer of Heyenk is recited to be comprised of 5-40 wt % amino resin crosslinker and no other mandatory additives the rest is comprised of 60-95 wt % polyester as claimed in claims 13 and 26. These ranges are sufficiently specific to anticipate the range of 65-85 wt % polyester resin recited in claim 14 and the range of 10-30 wt % crosslinker recited in claim 15.

12. Regarding claims 18 and 19: The coating of the invention is recited to be useful as interior or exterior coatings for beer cans, cans for other beverages and can ends made of substrates such as aluminum. (Pg. 8, lines 23-28) Methods such as the drawn-redrawn or draw-wall ironed methods are recited for production of the cans. (Col. 4, lines 33-34) The limitation in claim 18 that the end portion of the can be coated with the composition prior to fabrication is a product by process limitation and is not expected to produce a materially different product from a can end that was coated after fabrication. Since Heyenk specifically discloses the usefulness of the composition recited for coating can ends the limitation of claim 18 is anticipated. Heyenk also recites the usefulness of the composition for coating both the exterior and interior of cans so the limitations of claim 19 are anticipated as well.

13. Regarding claims 20, 21 and 27: The composition of claim 20 is anticipated by Heyenk and method recited in claims 20 are well known steps of the drawn-redrawn method of can production recited by Heyenk. It is standard practice to coat a metal substrate with polymer and allow it to cure in the drawn-redrawn method and thus the

limitations of claim 21 are anticipated by Heyenk. Heyenk clearly recites that the coating is useful for beverage cans and therefore anticipates the limitations of claim 27.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1, 3-6, 9-17, 18-21, 26, 27, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heyenk et al. International Publication Number WO 98/47974 (hereafter referred to as Heyenk) and Parekh et al. U.S. Patent No. 6,235,102 (hereafter referred to as Parekh).

16. Heyenk teaches what has been recited above but is silent regarding the addition of an acrylate copolymer having glycidyl groups and the  $T_g$  of the second polymer being between 15 and 25°C.

17. Parekh teaches what has been recited above and also teaches the addition of an acrylate copolymer having pendant glycidyl groups and to an acid-terminated polyester in a nonaqueous carrier in order to produce a compound that effectively inhibits corrosion of ferrous and nonferrous metal substrates such as aluminum upon curing and cross linking. (Col. 5, lines 30-32, lines 40-50) The coating composition is also free

of glycidyl ether and bisphenol monomers such as BADGE and bisphenol A. (Col. 5 lines 32-37) The coating composition is recited to comprise (a) about 50% to about 90% by weight of an acrylate copolymer having pendant glycidyl groups and (b) about 10% to about 50% by weight of an acid-terminated polyester. The coating composition is prepared by simply admixing the copolymer, the polyester, and any optional ingredients, in any desired order, in the non-aqueous carrier, with sufficient agitation. (Col. 13, lines 41-45)

18. Regarding claims 1, 3-6 and 9: Regarding applicant's recitation of one of the polyester resins have a  $T_g$  of greater than 50°C, in the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art" a prima facie case of obviousness exists. *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990) Since Heyenk teaches that the polyester having a  $T_g$  of greater than 45°C is present in an amount of at least 25% of the composition and that the cross linker is present in an amount of 5-40% it would be reasonable to infer that in a composition comprising 25% polyester having a  $T_g$  of greater than 45°C and 5% crosslinker the balance, 70% would comprise polyester having a  $T_g$  of less than 10°C. This interpretation of Heyenk provides a range of up to 70% of the second polyester which overlaps with the range claimed by applicant.

19. Therefore Heyenk obviates the limitations recited in claims 1, 3-5 and 9. Heyenk also teaches other polyols in addition to neopentyl glycol so the limitation of the polyol used to make the polyester of Heyenk is substantially NPG free as claimed in claim 6.



20. Regarding claim 10: The polymers are preferably polyesters with molecular weights between 2000 and 15000 which overlaps with the range claimed in claim 10.

(Pg. 2, lines 5-12)

21. Regarding claims 11 and 12: The ranges of acid number and OH number claimed by applicant in claims 11 and 12 are overlapped or encompassed by the disclosure of Heyenk. Alternatively, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have optimized the composition to decrease the amount of free acid and therefore decrease the acid and hydroxyl numbers of the composition within the ranges claimed by applicant for a coating intended to be in contact with food.

22. Regarding claims 13-15 and 26: Since the polymer of Heyenk is recited to be comprised of 5-40 wt % amino resin crosslinker and no other mandatory additives the rest is comprised of 60-95 wt % polyester as claimed in claims 13 and 26. These ranges encompass the ranges of 65-85 wt % polyester resin recited in claim 14 and the range of 10-30 wt % crosslinker recited in claim 15.

23. Regarding claims 16, 17 and 30: The motivation to combine the teachings of Parekh with the composition of Heyenk would have been to improve the corrosion barrier properties of the coating composition of Heyenk. The composition of Parekh inhibits the corrosion of metals by simply admixing the acrylate copolymer with pendent glycidyl groups with polyester. It follows that the addition of acrylate copolymer with pendent glycidyl groups would therefore improve the corrosion barrier properties of other polyesters.

24. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have added acrylate copolymer with pendent glycidyl groups to the polyester composition of Heyenk. This obvious addition of an acrylate copolymer with pendent glycidyl groups would have produced the invention as claimed in claim 30. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have optimized the amount of acrylate copolymer added to the polyester composition in order to optimize the corrosion resistance of the composition. Such an optimization would have resulted in the invention claimed in claims 16 and 17.

25. Regarding claims 18 and 19: The coating of the invention is recited to be useful as interior or exterior coatings for beer cans, cans for other beverages and can ends made of substrates such as aluminum. (Pg. 8, lines 23-28) Methods such as the drawn-redrawn or draw-wall ironed methods are recited for production of the cans. (Col. 4, lines 33-34) The limitation in claim 18 that the end portion of the can be coated with the composition prior to fabrication is a product by process limitation and is not expected to produce a materially different product from a can end that was coated after fabrication. Since Heyenk specifically discloses the usefulness of the composition recited for coating can ends the limitation of claim 18 is obviated. Heyenk also recites the usefulness of the composition for coating both the exterior and interior of cans as claimed in claim 19.

26. Regarding claims 20, 21 and 27: The composition of claim 20 is obviated by Heyenk and the method steps recited in claim 20 are well known steps of the drawn-redrawn method of can production recited by Heyenk. It is standard practice to coat a

metal substrate with polymer and allow it to cure in the drawn-redrawn method as claimed in claim 21. Heyenk clearly recites that the coating is useful for beverage cans as claimed in claim 27.

27. Regarding claim 29: Heyenk discloses that the  $T_g$  of the second polymer is lower than 40°C and can also be lower than 10°C. In the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art" a prima facie case of obviousness exists. *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990) Generally, differences in concentration or temperature will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical. "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955) "The normal desire of scientists or artisans to improve upon what is already generally known provides the motivation to determine where in a disclosed set of percentage ranges is the optimum combination of percentages."; *In re Hoeschele*, 406 F.2d 1403, 160 USPQ 809 (CCPA 1969) (MPEP 2144.05)

28. In the instant case, the range claimed by applicant lies within the temperature range disclosed to be useful in the prior art. The examples B-F (for which the  $T_g$  of the low  $T_g$  polyester is disclosed) presented in applicant's specification in Table 1 do not indicate there is any criticality to the claimed range of  $T_g$  between 15 and 25°C. Examples B-F comprise low  $T_g$  polyesters with  $T_g$ 's ranging from 5.8°C to 26.6° C

including example D with a low  $T_g$  polyester having a  $T_g$  of 15.9° being the only example which lies within the range of  $T_g$  claimed by applicant in claim 29. The values for crazing, blush, adhesion, 1 T bend and feathering for example D disclosed in Table 1 are the same as or very similar to the values disclosed for polyesters having a low  $T_g$  component outside the range claimed by applicant. Therefore, the criticality of this range has not been demonstrated. Since there is no criticality to the range claimed, a *prima facie* case of obviousness exists since this range is encompassed by the prior art.

29. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heyenk et al. International Publication Number WO 98/47974 (hereafter referred to as Heyenk) as evidenced by Parekh et al. U.S. Patent No. 6,235,102 (hereafter referred to as Parekh) and Maska et al. U.S. Patent No. 5,252,669 (hereafter referred to as Maska).

30. Heyenk and Parekh teach what has been recited above but are silent regarding the use of a phenoplast for cross-linking.

31. Maska teaches that aminoplasts and phenolic resins such as the condensation product of an aldehyde with a phenol are useful cross-linking curing agents for coating compositions. (Col. 6, lines 59-63) Formaldehyde and acetaldehyde are preferred aldehydes. Various phenols can be used, e.g., phenol per se, cresol, p-phenylphenol, p-tert-butylphenol, p-tert-amylphenol and cyclopentylphenol. (Col. 7, lines 19-23)

32. Both Heyenk and Maska teach aminoplasts as crosslinking curing agents. Maska teaches that phenoplasts were known in the art as equivalent crosslinking agents. It would have been obvious to one having ordinary skill in the art at the time the

invention was made to have substituted a phenoplast such as those taught by Maska for an aminoplast as the curing agent in the invention of Heyenk since phenoplasts were art recognized equivalents known for the same purpose as aminoplasts in coating compositions. (See MPEP 2144.06) This obvious substitution would have produced the invention as claimed in claim 28.

### ***Response to Arguments***

33. The examiner notes that the rejection presented in the Office Action dated 2/19/10 under 35 USC 102(b) or in the alternative 35 USC 103(a) has been upheld but is separated under different headings above in order provide more clarity. The same grounds of rejection presented 2/19/10 are maintained in the rejection above.

34. Applicant's arguments filed 6/8/10 have been fully considered but they are not persuasive.

35. Applicant has asserted on page 7 of the remarks that inherency may only be relied on when the reference relied on necessarily includes the unstated limitation. On page 8 of the remarks applicant asserts that Heyenk does not disclose a single polyester having a  $T_g$  of greater than 50°C. This point of contention was addressed in the previous response to arguments. "Applicant must look to the **whole reference** for what it teaches. Applicant cannot merely rely on the examples and argue that the reference did not teach others." *In re Courtright*, 377 F.2d 647, 153 USPQ 735,739

(CCPA 1967). The open ended range of greater than 45°C is sufficiently specific to anticipate the open ended range of greater than 50°C claimed by applicant.

36. Applicant asserts on page 8 that "there is no basis for assuming that the composition would necessarily include the minimum disclosed amounts of both the T<sub>g</sub> > 45°C and the crosslinker" and that there is "no basis for inferring that polyester polymer having a T<sub>g</sub> of less than 10°C would necessarily constitute the remainder of the composition". There are only three things that the disclosure of Heyenk *requires* be present in the composition disclosed: "at least **two** polymers wherein at least one polymer has a glass transition temperature greater than about 45° C" (Col. 1, lines 28-31) and the "polymer mixture according to the invention **has** to be cured with a crosslinker"(Col. 2, lines 28-29) The second polymer is disclosed to preferably have a T<sub>g</sub> less than 10°C. (Col. 1, lines 56-57) Since only three components are required in the composition of Heyenk, there is a substantial basis for inferring "that polyester polymer having a T<sub>g</sub> of less than 10°C would necessarily constitute the remainder of the composition". Applicant's assertions on page 8 of the remarks regarding the alternative embodiments disclosed by Heyenk and descriptions of what else Heyenk "can" include fail to negate the disclosure of the embodiment utilized by the examiner. As stated previously, a "nonpreferred disclosures can be used. A nonpreferred portion of a reference disclosure is **just as significant** as the preferred portion in assessing the patentability of claims." *In re Nehrenberg*, 280 F.2d 161, 126 USPQ 383 (CCPA 1960). (emphasis added) Therefore, applicant's assertions are not found persuasive.

37. Applicant assertions regarding contradicting the "preferred" teachings of Heyenk are not found persuasive for the reasons enumerated previously and above regarding the validity of nonpreferred disclosures.

38. Applicant's assertion on page 9 of the remarks that the example provided by Heyenk does not fit the fact patten of *In re Woodruff* is not found persuasive since this does not negate the teachings of the full disclosure of Heyenk.

39. Applicant has asserted on page 10 of the remarks that since there is no explicit teachings that the coating of Heyenk has corrosion problems one of ordinary skill would not be motivated to improve corrosion resistance. The Courts have made clear that the teaching, suggestion, or motivation test is flexible and an explicit suggestion to combine the prior art is *not* necessary. The motivation to combine may be *implicit* and may be found in the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved. *DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, at 1366, 80 USPQ2d at 1649 (Fed. Cir. 2006). "[A]n implicit motivation to combine exists not only when a suggestion may be gleaned from the prior art as a whole, but when the improvement is technology-independent and the combination of references results in a product or process that is more desirable, for example because it is stronger, cheaper, cleaner, faster, lighter, smaller, more durable, or more efficient. Because the desire to enhance commercial opportunities by *improving* a product or process is universal-and even common-sensical-we have held that there exists in these situations a motivation to combine prior art references even absent any hint of suggestion in the references themselves. In such situations, the proper question

is whether the ordinary artisan possesses knowledge and skills rendering him capable of combining the prior art references." Id. at 1368, 80 USPQ2d at 1651. (MPEP 2143 (G)) It is common-sensical to want to improve the corrosion resistance of a coating, even absent an explicit teaching.

40. The examiner did not suggest that it would be necessary to include 50% by weight acrylate copolymer having pendent glycidyl groups as asserted by applicant on pages 10 and 11 of the remarks, but instead that one of ordinary skill would have been motivated to try including a composition known to have beneficial properties.

Applicant's assertion that including acrylate copolymer may degrade on or more of the Heyenk coating properties is speculative and not found persuasive. Applicant's assertions on page 11 regarding applicant's perception that one of ordinary skill would have been discouraged from the acrylate composition of Parekh for food contact is negated by the disclosure in Parekh that "the coating composition does not adversely affect products packaged in a container having a metal closure coated on the interior surface". (Col. 5, lines 48-50)

41. In response to applicant request for clarification of the rejection of claim 29, Parekh was relied upon in combination with Heyenk for the obviousness rejection of claim 29 because Parekh evidences that the composition recited by Heyenk meets the limitation that the composition claimed be substantially free of mobile BPA and aromatic glycidyl ether compounds required in claim 1, from which claim 29 depends. Applicant's further assertions regarding the perceived deficiencies in Heyenk on pages 11 and 12 have been addressed above.



***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MICHELE JACOBSON** whose telephone number is (571)272-8905. The examiner can normally be reached on Monday-Thursday 8:30 AM-7 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571)272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michele L. Jacobson  
Examiner /M. J./  
Art Unit 1782

/Rena L. Dye/  
Supervisory Patent Examiner, Art Unit 1782